

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/2614

Re: Property at Flat 4, 13 Portland Street, Edinburgh, EH6 4SX (“the Property”)

Parties:

Mr Ronald Graham, 20 Gordon Street, Edinburgh, EH6 8NA (“the Applicant”)

Mr James Brown, Flat 4, 13 Portland Street, Edinburgh, EH6 4SX (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for possession of the property be granted

- **Background**
The application is for an order for possession on termination of a Short Assured Tenancy of the property known as and forming Flat 4, 13 Portland Street, Edinburgh EH6 4SX. An application was submitted to the tribunal by the Applicant’s representative on 4 October 2018 setting out that the Applicant seeks possession on the termination of the Short Assured Tenancy.

Documents lodged with the tribunal were an unsigned copy of the Tenancy Agreement, an unsigned copy of the AT5, a Notice to Quit dated 20th March 2018, a Section 33 Notice dated 20th March 2018, a copy Section 11 Notice and copy Certificate of Execution of Service by Sheriff Officers dated 21st March 2018.

The tribunal fixed a Case Management Discussion and this was intimated to parties. The Respondent was served notice by Sheriff Officers on 12th November of the case and details of the Case Management Discussion. The Respondent was advised in this correspondence that he required to lodge any written representations by 26th November 2018. He was also advised that if

he did not attend the Case Management Discussion this would not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. No written responses have been received from the respondent.

- The Case Management Discussion

The Case Management Discussion took place today. The Applicant was represented by Hayley Swanson of TC Young Solicitors. The tribunal went through all the documentation lodged. The tribunal raised the issue of whether the Applicant had signed copies of the tenancy agreement and AT5. Ms Swanson advised that she had contacted the letting agents in this regard. The letting agents are Milards, Great Meikle House, 14 Links Place Edinburgh. They advised that the Landlord had had the AT5 signed before the tenancy agreement on the same date as he had had the signed inventory signed. For some reason a copy of the signed inventory had been retained but not of the signed AT5 or tenancy agreement. A copy of the signed inventory was provided to the tribunal. Ms Swanson advised that there had been an issue with the landlord registration in respect of this property. It had initially been registered in the name of the landlord's wife due to an error but this had now been resolved. The letting agents did not believe the respondent still resided at the property. They had had to force access some time ago to fix a leak and the respondent had never turned up to get a copy of the new keys to the property. The letting agents had last been out to the property approximately 6-8 weeks ago when it appeared that the respondent was not residing there but still retained the address. The rent was getting paid via Housing Benefit.

- Findings in Fact

1. The applicant and the respondent entered into a short assured tenancy agreement from 8th September 2003 to 8th March 2004. If the agreement was not terminated by either party it would continue thereafter on a month by month basis until either party terminated the agreement by giving not less than 2 months notice.
2. A Notice to Quit and Section 33 Notice were served on the respondent by Sheriff Officers on 21st March 2018 requesting the respondent leave the property by the ish date of 8th June 2018.
3. The applicant is entitled to the order sought for possession.

- Reasons for Decision

The tribunal proceeded on the basis of the written documents which were before it as detailed above and there were no written representations from the respondent. The tribunal also proceeded on the oral submission of the applicant's representative as detailed above. There was nothing before the tribunal challenging or disputing any of the evidence before it. All the requirements for repossession of a property in terms of Section 33 of the Housing (Scotland) Act 1988 were met.

- Decision
The order for eviction/repossession is granted.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Anne Mathie

Legal Member/Chair

30 November 2018

Date